

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CALVIN BURKE,)	
)	
Petitioner,)	
)	
vs.)	Case No.: <u>3:13-cv-00449-DRH-PMF</u>
)	
RICHARD HARRINGTON,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

FRAZIER, Magistrate Judge:

Before the Court is Petitioner Calvin Burke’s petition for a writ of habeas corpus (Doc. 1) filed pursuant to 28 U.S.C. § 2254. Respondent Richard Harrington has filed a motion to dismiss as moot (Doc. 17) based on the fact that Burke was only challenging his 2012 mandatory supervised release (“MSR”) revocation (not the underlying convictions), and the MSR has been completely discharged as of July 22, 2013. Respondent has cited controlling caselaw indicating that dismissal is appropriate under these circumstances. *See* Doc. 17 at 2 ¶ 5 (citing *Spencer v. Kemna*, 523 U.S. 1, 7, 14 (1998)). Burke has failed to file a response to the (Doc. 17) motion to dismiss in the applicable response window. Accordingly, it is recommended that the (Doc.17) motion to dismiss be granted and that Calvin Burke’s petition for a writ of habeas corpus (Doc. 1) be denied.

SO RECOMMENDED.

DATED: October 11, 2013.

s/ Philip M. Frazier
PHILIP M. FRAZIER
UNITED STATES MAGISTRATE JUDGE